

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

LEIGHTON D. LINDSEY,

Plaintiff,

v.

TANIA CLARK, DAVID GARDNER,
ROBERT HABLE, TROY HERMANS,
STACEY HOEM, MARY MILLER,
SARAH MASON, SCOTT RUBIN ASCH,
JENNIFER ANDERSON, JERRY SWEENEY,
ANDRES NAGLE, DEANNA THEIN,
MARLA WALTERS, KEVIN TRIPP,
JEFFREY KNUPPLE, BURTON COX,
JONI SHANNON-SHARPE,
BRIAN KOOL and MELANIE HARPER,

Defendants.

ORDER

12-cv-923-bbc

In this civil action, plaintiff Leighton D. Lindsey is proceeding on a medical care claim under the Eighth Amendment. Summary judgment is fully briefed and has been under advisement since August 13, 2014. Now, plaintiff's pro bono lawyer Gregory Dutch has filed a motion to withdraw as plaintiff's counsel because he says that communications have broken down between him and plaintiff. He points to the fact that plaintiff has been filing materials without first notifying him, although plaintiff had been warned by this court not to do so and had argued with Dutch that he would refrain from this behavior. I will give plaintiff an opportunity to respond to Dutch's motion, explain whether he wishes to retain

Dutch as his attorney and, if so, what steps he believes may be taken to repair their relationship.

Dutch also summarily asks this court to “stay” summary judgment proceedings and “other motions before the court” in order to “allow plaintiff the opportunity to supplement his response to summary judgment and pursue any other issue he deems appropriate.”

Dutch Aff., dkt. #165, at 2. The two pending motions in this case are defendants’ motion for summary judgment, dkt. #118, and plaintiff’s motion to compel discovery, dkt. #155.

Because both motions are briefed and under advisement, it would be unusual for the court to allow a party to supplement their filings. Dutch does not explain why or how plaintiff would supplement either motion. Plaintiff personally (without Dutch) filed a “reply” to the motion to compel, dkt. #161, as well as various other filings. E.g., dkt. ##151-53, 163 (Dutch did not file a reply brief on behalf of plaintiff with respect to the motion to compel.)

Therefore, it seems that if plaintiff wished to move to supplement the materials in either motion, he would have done so. Nevertheless, I will give plaintiff the opportunity to identify whether he wishes to supplement his materials and explain why he should be allowed to do so at this late date. If plaintiff wishes to supplement his materials, he should file his proposed supplementary materials with his response.

Finally, Dutch says “plaintiff requests a hearing on this matter,” though he does not specify whether he means that plaintiff wants a hearing on Dutch’s representation or on staying or supplementing the motion for summary judgment and motion to compel. Dutch Aff., dkt. #165, at 2. Although I do not believe a hearing is required at this time, Magistrate

Judge Crocker will hold a telephonic hearing if plaintiff's responses indicate that one is necessary.

ORDER

IT IS ORDERED that plaintiff Leighton D. Lindsey may have until September 16, 2014 to respond as described in this order to Gregory Dutch's motion to withdraw as his counsel, dkt. #164. If plaintiff wishes to file materials to supplement the motion for summary judgment, dkt. #118, or the motion to compel, dkt. #155, he must state his intent to do so and the reasons he believes he should be given the opportunity no later than September 16, 2014.

Entered this 5th day of September, 2014.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge